

REMARKS

The remarks made by applicant in the preceding Amendment still apply. There is no need for drawings showing features implemented by a microprocessor. Rule 83 (a) goes further; it says explicitly that a labeled rectangular box should be used for conventional features where a drawing is not necessary for an understanding of the invention. In this case, the individual processing steps are conventional, and it is only the combination that is claimed as inventive. According to the Rule, applicant is not supposed to show anything more than a rectangular box. Tens if not hundreds of thousands patents have issued with microprocessors used in systems shown as boxes, and with the specifications simply describing the processing steps taken by the microprocessors. The proofs, if any are needed, are the Gruenke and Rapaport patents on which the Examiner himself is relying. They show microprocessors as boxes and describe the processing steps that take place, yet the Examiner is relying on their disclosures. Applicant's drawings are just as informative as those of the references.

To illustrate the illogic of the rejection, the Examiner is referred to pages 2 and 4 of his own Office Action. On page 2, the Examiner objected to the "weighting assignment member" not being shown in the drawing. Yet on page 4, where the Examiner relies on Rapaport's teaching of "a weight assigning member", the Examiner actually references rectangular box 80, a microprocessor!

With respect to the obviousness rejection, the Examiner acknowledges that Gruenke does not disclose applicant's weighting feature. But the Examiner says that Rapaport does. It is not a question of whether it would have been obvious to add a feature of Rapaport to Gruenke's system, which is the focus of the Examiner's argument. The argument doesn't even get that far because Rapaport does not disclose applicant's weighting feature.

Applicant assigns different weights to flow samples. By processing the samples, a single index is derived that tells something about an airflow obstruction. Rapaport does not do this. Referring specifically to that part of the Rapaport disclosure relied on by the Examiner (column 10, lines 1-10 and column 11, lines 12-26), Rapaport derives four indexes, and he applies different weights to the four indices to come up with a composite index. Rapaport weights multiple indexes differently to derive a composite index from the multiple indexes, while applicant weights multiples

samples differently to derive a single index. What the two systems have in common is using weights, but that is concededly old in many arts. The Examiner has cited no prior art in the art of interest in which samples that are used to derive a single index value are weighted differently. There is no prior art that suggests this. Art that uses weighting for other purposes does not even come close. There is no suggestion anywhere that a better (single) index can be derived by weighting different flow samples differently.

Independent claim 1 says that weights are assigned to portions of a flow signal to generate an obstruction signal. The claim is directed to the derivation of a single index, assigning a different importance to respective parts of the signal. The references do not such thing. Independent claims 6 and 7 similarly talk about "a weighted average of said flow signal", and an indication of an airway obstruction based on the weighted average signal. There are no multiple indexes that are weighted differently as in Rapaport. There is a single index, derived from a single signal whose samples are weighted differently. There is no indication in Rapaport that different samples of a signal are weighted differently.

Similar remarks apply to independent claim 21. Portions of a section of an air flow have different weighting factors assigned to them, and an index value is determined from the section based on the weighting factors. Rapaport does not apply different weights to different sections of a signal. He applies different weights to different indexes in coming up with a composite index.

Independent claim 31 very specifically refers to samples of a section of an air flow, the assigning of weights to the samples, and the generation of an obstruction signal based on the weights and the samples. This claim certainly has no application to the references.

Applicant takes issue with the Examiner on many of the points made concerning the dependent claims. However, because the independent claims are so clearly patentable over the references cited by the Examiner, it is not believed necessary to respond to the arguments on the dependent claims. The Examiner is requested to withdraw the final rejection and to pass the application with claims 1-40 to issue.

If any questions remain, the Examiner is invited to call applicants' attorney at (212) 684-3900. No fee is deemed necessary in connection with filing of this communication. However, if any fees are due, the Commissioner is authorized to charge those fees to the firm's Deposit


Docket No. 3869-012

Account No. 07-1730, Docket No. 3869-012.

Respectfully submitted

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Dated: 5/3/04

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